

NO :S HJ C- 70C 7102  
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
DIVISION

Appendix A  
United States District Court  
Southern District of Texas  
FILED  
NO :S HJ C- 70C 7102  
JUL 05 2012  
David J. Bradley, Clerk of Court

Thomas S. Kluttz

Versus

Worldpac

CIVIL ACTION NO. \_\_\_\_\_

EMPLOYMENT DISCRIMINATION COMPLAINT

1. This action is brought under Title VII of the Civil Rights Act of 1964 for employment discrimination. Jurisdiction is conferred by Title 42 United States Code, Section § 2000e-5.

2. The Plaintiff is: Thomas S Kluttz  
1030 Barkston Drive  
Katy, TX 77450  
County of Residence: Harris County

3. The Defendant is: Worldpac  
37137 Hickory Street  
Newark, CA. 94560

4. The plaintiff has attached to this complaint a copy of the charges filed on  
January 11, 2012.

5. On the date of April 07, 2012, the plaintiff received a Notice of Right to Sue letter issued by the Equal Employment Opportunity Commission; a copy is attached.

FILE FEE PAID  
MASTER CARD #  
\$ 350.00  
EXPIRE DATE: 01/13  
CHARGE \$350.00 TO  
ACCOUNT ON  
7-03-2012  
Thomas S Kluttz

**6.a: Because of the Plaintiff's sex and age,**

the defendant has:

**6.b:** Worldpac violated anti-discrimination laws.

**6.c:** Worldpac treated the plaintiff a male, different then women.

**6.d:** Worldpac retaliated against the plaintiff.

**6.e:** Worldpac terminated the plaintiff's employment.

**6.f:** Worldpac caused the plaintiff: defamation of character.

**7. When and how the defendant has discriminated against the plaintiff:**

**History of Harassment of men at Worldpac Houston Warehouse 21:**

**7.1: January 2004:** Trina Jones, supervisor and future assistant manager received “Final Written Warning” from Worldpac for “Inappropriate Behavior in the Workplace”. Trina’s behavior included “participation in conversations regarding sexual experiences,” and “making derogatory comments about a fellow associate.” Referring to an associate as a “pimp and a whore”.

**7.2: August 2005:** During my initial 2-week manager-training period. A male worker told me that a “clique” existed here at Worldpac Houston Warehouse 21. He said: “the goal of everyone here”, is to either “belong to the clique or be very nice to the clique”. “If not, you are bullied and harassed.” The clique varied in size but generally consisted of 4 to 5 women, some of them supervisors. The male worker stated that he could not work at #21 because of the on-going harassment from the clique. He had one week left of his 2-week notice to quit.

**7.3: October 2008:** I reported to Steve Sims (Worldpac Director) on numerous occasions that Trina Jones was having difficulty fulfilling her role as Assistant Manager because she needed training, and was “hanging out” with workers. She participated in conversations regarding sexual experiences and made derogatory statements to workers. As per letter dated October 13, 2008, and numerous verbal conversations where I notified Worldpac that Trina Jones (a female member of the “clique”) was a bully and harassed men. Worldpac responded by treating men negatively, and different than women.

**History of harassment of men at Worldpac Houston 21, January 2009 thru December 2011:**

**7.5:** The “clique” now consisting of Lisa, Ana, Rosa and Trina. four female supervisor-bullies regularly harassed male workers as the male workers entered the workspace of the four female supervisors. Male workers were subjected to daily, regular, constant and egregious bombardment of derogatory statements and harassment:

Loud, graphic sexual comments regarding sexual encounters that had occurred between the four female supervisors.

Loud and graphic bashing of traditional sexual relationships between male and female.

Graphic details of women having sex with other women.

Loud and open bashing of God and religious groups.

Loud, graphic and continuous use of vulgarity and profanity.

**7.6:** Worldpac GPI violated anti-discrimination laws by not taking preventive action to stop women’s harassment of men after Daniel Gonzalez reported the harassment to Worldpac.

**7.7:** The clique continued to harass men until Ken Mackey reported that the clique was harassing men. Worldpac GPI violated anti-discrimination laws by attempting to fire Ken Mackey, a 49 year old male, by falsely accusing Ken of sexual harassment.

**7.8:** Worldpac GPI violated anti-discrimination laws by firing Lester Adams for his 30 failed attempts (text messages) to notify the assistant manager that Lisa and Ana harassed the male workers. The assistant manager did not respond to the text messages because the Assistant manager was involved in, and supported the ongoing harassment of men.

**7.9:** Worldpac violated anti-discrimination laws by firing me, Thomas Kluttz, a 59 year old male, who blew the whistle on the four women supervisors who had been bullying and harassing male workers from years 2005 to 2011.

**7.10:** Worldpac GPI violated anti-discrimination laws by firing Steve Sims a 60 year old male who reported that Lisa, Ana, Rosa and Trina harassed men.

**7.11:** Worldpac caused Defamation of Character to me, Thomas Kluttz, by giving untrue and false reason for my “termination of employment”.

**7.12:** After my management position was terminated, Worldpac replaced me with a younger women.

**7.13:** Four older men were discriminated against all within the same time period.

**8. The plaintiff requests that the defendant be ordered to:**

**8.1:** create a better policy and stop the discrimination of men when it involves harassment.

**8.2:** Re-employ the plaintiff.

**8.3:** compensation for loss of wages.

**8.4:** the court grant relief, including injunctions, damages, costs and attorney's fees.

 7-03-2012  
\_\_\_\_\_  
Signature of Plaintiff

Address: 1030 Barkston Drive

Katy, Texas 77450

Telephone: 281-948-6262

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: Thomas S. Kluttz  
1030 Barkston Drive  
Katy, TX 77450

From: Houston District Office  
Total Plaza  
1201 Louisiana, Suite 600  
Houston, TX 77002

☐

On behalf of person(s) aggrieved whose identity is  
CONFIDENTIAL (29 CFR §1601.7(a),

EEOC Charge No.	EEOC Representative	Telephone No.
460-2012-00958	Gerard Ladera, Investigator	(713) 651-4945

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

- ☐ The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.
- ☐ Your allegations did not involve a disability as defined by the Americans With Disabilities Act.
- ☐ The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.
- ☐ Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge
- ☒ The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.
- ☐ The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.
- ☐ Other (briefly state;

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

**Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act:** This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

**Equal Pay Act (EPA):** EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

Enclosures(s)

On behalf of the Commission

R. J. Ruff, Jr.,  
District Director

4/5/12  
(Date Mailed)

cc:

Aaron Menser  
Assistant General Counsel  
WORLD PAC INC  
2635 E. Millbrook Road  
Raleigh, NC 27604

TWC-Civil Rights Division  
101 E. 15th Street, Rm. 144-T  
Austin, TX 78778-0001

CLAIM

## CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To: Agency(ies) Charge No(s):

☐ FEPA☒ EEOC

460-2012-00958

## Texas Workforce Commission Civil Rights Division

and EEOC

State or local Agency, if any

Name (indicate Mr., Ms., Mrs.)

Mr. Thomas S. Kluttz

Home Phone (Incl. Area Code)

(281) 948-6262

Date of Birth

09-23-1952

Street Address

City, State and ZIP Code

1030 Barkston Drive, Katy, TX 77450

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

WORLD PAC

No. Employees, Members

500 or More

Phone No. (Include Area Code)

(800) 888-9982

Street Address

City, State and ZIP Code

37137 Hickory Street, P.O. Box 5022, Houston, TX 77063

Name

No. Employees, Members

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate boxes):

☐ RACE☐ COLOR☒ SEX☐ RELIGION☐ NATIONAL ORIGIN☒ RETALIATION☒ AGE☐ DISABILITY☐ GENETIC INFORMATION☐ OTHER (Specify)

DATE(S) DISCRIMINATION TOOK PLACE

Earliest

Latest

05-24-2010

05-15-2011

☐

CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

- I. I was employed by Respondent as Branch Operations Manager from August 8, 2005 to May 15, 2011.
- II. Throughout my employment, older, male managers have systematically been terminated and replaced by younger females throughout the company.
- III. I believe that I have been retaliated against for engaging in a protected activity and discriminated against, as a member of a class of older males, in violation of the Age Discrimination in Employment Act (ADEA) of 1967, as amended, and Title VII of the Civil Rights Act of 1964, as amended.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE  
(month, day, year)

01-11-2012 x Thomas Kluttz  
Date Charging Party Signature



## ASSOCIATE COUNSELING REPORT

<b>Associate:</b> Trina Jones		<b>Date:</b> 1-26-04
<b>Position:</b> Warehouse/driver	<b>Department:</b> 966	<b>Location:</b> #21

<b>Nature of Problem:</b>	<input type="checkbox"/> Performance	<input type="checkbox"/> Attendance	<input type="checkbox"/> Safety Violation
	<input checked="" type="checkbox"/> Misconduct	<input type="checkbox"/> Tardiness	<input type="checkbox"/> Driving Record
	Other :		

<b>Has Associate Been Previously Counseled?</b>	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No		
<b>Type of Previous Report(s):</b>	<input type="checkbox"/> Verbal	<input type="checkbox"/> Performance Appraisal	<input type="checkbox"/> Written Counseling(s)	<input type="checkbox"/> Suspension
<b>Indicate Date(s):</b>				

**Supervisor / Manager's Comments:** This is a FINAL WARNING. Through an internal investigation, it was revealed that Trina was involved in inappropriate behavior in the workplace. The behavior included the following:

Hugging other associates.  
Allowing associates to massage her shoulders.  
Participating in conversations regarding sexual experiences.  
Making derogatory comments about a fellow associate. Referring to an associate as a "pimp and whore".

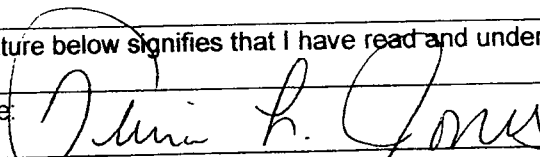
This type of behavior is considered inappropriate and should cease immediately.

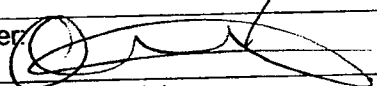
<b>Associate's comments and recommendations:</b>	The absence of any statement on the part of the associates indicates his/her agreement with the report as stated.

**How supervisor / manager will assist associate to correct problem:** The manager will direct the associate to review WorldPac's harassment prevention policy and Code of Conduct. Manager will verify the completion of the review and answer any questions with the associate.

**Proposed Solution:** Attend mandatory harassment meeting in the near future.

**Future action if problem continues:** Further disciplinary action, up to and including termination.

My signature below signifies that I have read and understand the above report and that I have received a copy of it.	
<b>Associate:</b> 	<b>Date:</b> 1-27-04

<b>Supervisor/Manager:</b> 	<b>Date:</b> 1-26-04
<b>Reg. Ops. Manager (if applicable):</b>	<b>Date:</b>
<b>2<sup>nd</sup> Level Manager:</b>	<b>Date:</b>



[ No Subject ]

Monday, October 13, 2008 3:10 AM

From: "Thomas Kluttz" <katyrealty1@yahoo.com>

To: "Steve Sims" <stevens@worldpac.com>

Steve,

During the past 2 years, it has been required of me to work with an unqualified ABOM that refuses to perform as directed.

She has communicated inappropriate information to teammates and has prevented me from fulfilling management responsibilities.

Because of her actions, and in-actions, my current position as BOM is now at risk.

She has now filed a claim against me and Worldpac.

I desperately need legal advise of which Worldpac has not yet provided.

I request immediate time off to seek legal counsel and advise.

Thank You,

Thomas Kluttz

**Subject:** ABOM progress update, Houston 80  
**From:** Thomas S Kluttz <thomask@worldpac.com>  
**Date:** Tue, 08 Jul 2008 18:49:01 -0500  
**To:** Steve Sims <stevens@worldpac.com>

Steve,

The following is an update on the progress of Trina Jones as ABOM.

~~Transferred to Houston 80 10-9-06 with an initial need to record statements of her new BOM.~~ Appeared to have a mis-trust of some people.

I began utilization of new ABOM (Trina) in similar manor as with the previous ABOM, by assigning the same responsibilities and expectations.

Previous ABOM understood and accepted responsibility and was able to multi-task with many assignments, including being overloaded, and follow up, all while "getting the trucks out".

Trina's lack of knowledge and experience resulted in her inability to follow thru with the many tasks and expectations given her. Friction resulted because of my refusal to address the overload and reduce the high level of expectations that I continually placed upon Trina.

During the past six months, I have reduced the expectations and management load placed upon Trina, but still maintain strict adherence to her follow ups and completion of given tasks.

And at the same time she has grown in her administrative responsibilities.

To be a more effective manager Trina needs to let go of her desire of having a too-close of a bond with some Teammates.

~~As Trina grows in her ability to trust others, grow with various computer software, and maintain her own ABOM-to-do-list, she will excel as an ABOM.~~

Thomas Kluttz  
BOM  
Houston #2

At the end of the day on Friday afternoon 08-01-08, BOM discussed weekend issues with Avery Stevenson (ABOMT) and Trina Jones (ABOM) ie: labor overtime, truck repair, and replenishment.

Trina displayed her dissatisfaction that Avery was included in the discussion by walking away as BOM instructed her on weekend directives.

Trina turned her back to the BOM, left the dispatch area and refused to listen to BOM'S weekend directives.

Failure to listen to directives.

Disrespect and disregard for management.

Inappropriate act of insubordination committed directly in front of assistant manager in training.

Trina must learn to work and act like a manager, and not allow decisions, directives and discussions, to affect her judgement and management ability.

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Trina has been unwilling to accept the most important responsibility of an ABOM: "even though there is never enough time, we are still held accountable".

Attempts to teach accountability have not been accepted and have caused disagreements, debates and rebuttals from Trina (this is reflected in her last year's performance evaluation).

Although Trina gets the physical work done in the warehouse, she must use her time more effectively, delegate more often, and reduce unnecessary time waste in Cash management. This will allow her to complete and follow thru with the continuously increasing load of administrative functions. She may want to be a little more flexible when it comes to catching up on her administrative tasks by sometimes working beyond a 40 hour week.